

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: BENNEKER ET AL.  
Title: CRYSTALLINE PAROXETINE METHANE  
SULFONATE  
Patent No.: 7,598,271  
Issue Date: 10/06/2009  
Examiner: Celia Chang  
Art Unit: 1625  
Confirmation 9739  
Number:

**SUPPLEMENTAL RENEWED REQUEST FOR RECONSIDERATION OF PTA  
UNDER 37 C.F.R. §1.705 & RESPONSE TO DECISION ON PETITION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Supplemental to the Renewed Request for Reconsideration of PTA and Response to Decision on Petition filed by the Applicants on October 22, 2009, Applicants note that the PTO is now following the Federal Circuit decision in *Wyeth v. Kappos*, that affirmed the district court decision.

In particular, in *Wyeth v. Kappos*, No. 2009-1120 (Jan. 7, 2010), the Federal Circuit determined that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay and the B delay," and that "[i]f an A delay occurs on one day and a B delay occurs on a different day, those two days do *not* 'overlap' under section 154 (b)(2)" (emphasis added).

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Applicants believe no additional fee is due for this supplemental petition and request for reconsideration. However, the Commissioner is authorized to charge any fees which may be due, or credit any overpayment, to Deposit Account No. 19-0741.

Respectfully submitted,

Date June 2, 2010

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§1.703(a)(6) due to the PTO's failure to issue the patent within four months of the issue fee payment made October 1, 2008, before the Request for Deferral of Issuance filed March 6, 2009.